

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

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UNITED STATES OF AMERICA,

Case No. 3:13-cr-00117-LRH-VPC

Plaintiff,

CIPA SECTION 4 ORDER

v.

BALWINDER SINGH,

aka Jhaji,
aka Happy,
aka Possi,
aka Baljit Singh,

Defendant.

UNCLASSIFIED ORDER APPROVING DELETION OF CLASSIFIED MATERIALS FROM
DISCOVERY PURSUANT TO CIPA SECTION 4 AND FEDERAL RULE OF CRIMINAL
PROCEDURE 16(d)(1)

This matter has come before the Court on the Government's Classified *In Camera*
Ex Parte Memorandum of Law and Motion for an Order Pursuant to Section 4 of the
Classified Information Procedures Act and Rule 16(d)(1) of the Federal Rules of Criminal
Procedure, filed June 30, 2016. Having reviewed the Government's CIPA Motion and
attachments, the relevant law, and being fully advised in the premises, the Court
concludes that good cause exists for granting the motion of the United States. After *ex*
parte, *in camera* inspection and consideration of the Government's motion and
attachments, the Court concludes that:

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1 1. Defendant is charged in an indictment with one count of Conspiracy to Murder,
2 Kidnap, and Maim Persons in a Foreign Country in violation of 18 U.S.C. § 956(a)(1); one
3 count of Conspiracy to Provide Material Support to Terrorists, in violation of 18 U.S.C.
4 § 2339A(a); one count of False Statement on an Immigration Document in violation of 18
5 U.S.C. § 1546(a); two counts of Use of an Immigration Document Procured by Fraud in
6 violation of 18 U.S.C. § 1546(a); one count of Unlawful Production of an Identification
7 Document in violation of 18 U.S.C. §§ 1028(a)(1) and (b)(4) and one count of Possession
8 of an Unregistered Firearm in violation of 26 U.S.C. §§ 5841, 5861(f) and 5871.

9 2. On June 30, 2016, the United States of America, by and through its attorneys of
10 record, moved, *ex parte*, *in camera* and under seal, pursuant to Section 4 of the
11 Classified Information Procedures Act (CIPA), 18 U.S.C. App 3, and Fed. R. Crim.
12 P. 16(d)(1) for authorization to “delete” from discovery certain classified materials (the
13 Classified Materials). The Government seeks to delete the Classified Materials from
14 discovery since they are not both relevant and helpful to the defense, and because their
15 unauthorized disclosure at this time has the potential to cause serious damage to national
16 security.

17 3. Through the declarations of United States Government officials, the Government
18 submitted with the CIPA Motion, the Government has properly invoked its classified
19 information and national security privilege with respect to the Classified Materials.

20 4. The CIPA Motion was properly filed *ex parte*, *in camera*, for this Court’s review,
21 pursuant to CIPA § 4 and Fed. R. Crim. P. 16(d)(1). The Court has conducted an *ex*
22 *parte*, *in camera*, review of the classified CIPA motion and memorandum of law,
23 declarations, and attachments.

24 5. The disclosure of the Classified Materials at this time would cause serious damage
25 to the national security.

26 6. The “relevant and helpful” standard adopted to CIPA Section 4 in United States v.
27 Yunis, 867 F.2d 617 (D.C. Cir. 1989) (and originally articulated in United States v.
28 Roviaro, 353 U.S. 53 (1975)), is the appropriate standard by which to analyze the

1 discoverability of classified information where, as here, the government has properly
2 invoked the national security and classified information privilege. To this end, the Court
3 finds that in applying the Yunis/Roviaro standard, none of the Classified Materials is
4 “relevant and helpful to the defense.” This order applies to each of the Government’s
5 discovery obligations under Federal Rule of Criminal Procedure 16, as well as the Jencks
6 Act and Brady v. Maryland, Giglio v. United States, and their progeny.

7 7. Because the Classified Materials are not both relevant and helpful to the defense,
8 the Court need not balance the government’s national security interest against the
9 defense interest in access to the material.

10 Accordingly, pursuant to Section 4 of the Classified Information Procedures Act, 18
11 U.S.C. App 3, and Fed. R. Crim. P. 16(d)(1), IT IS HEREBY ORDERED that:

12 1. The Government’s CIPA Motion is hereby GRANTED.

13 2. The Classified Materials shall be deleted from discovery and shall not be disclosed
14 to defendant, his counsel, or the public.

15 3. The CIPA Motion and its attachments are hereby SEALED and shall be retained in
16 accordance with established security procedures until further order of this Court.

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18 IT IS SO ORDERED.

19 DATED this 18th day of October, 2016.

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21 
22 LARRY R. HICKS
23 UNITED STATES DISTRICT JUDGE
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